

1
2
3 **BEFORE THE CITY OF SEATTLE PUBLIC SAFETY**
4 **CIVIL SERVICE COMMISSION**

5 In Re the Matter of

6 **GREG ANDERSON**

7 Request to Order a Classification Study on
8 the Harbor Patrol Unit Boat Pilots

ORDER

9
10 **Background**

11
12 Greg Anderson is a Firefighter with the Seattle Fire Department. He is currently ranked
13 fourth on the Fireboat Pilot promotional register. In September 11, 2009, Firefighter Anderson
14 requested the Public Safety Civil Service Commission (Commission) perform a classification
15 study for individuals serving as pilots in the Police Department's Harbor Patrol Unit.

16 Mary E. Effertz, Executive Director of the Commission "declined to 'make or cause to be
17 made' a classification study of the Police Department Harbor Patrol positions at the request
18 of...a member of the Fire Department.¹ Commission Rule 7.03 states that the Secretary shall
19 make position classification studies when 1) the duties and responsibilities of existing positions
20 have significantly changed; 2) new positions are established by the City Council; or 3) *may do so*
21 upon request of an appointing authority, department head, or effected employee. Director Effertz
22 found that there was no evidence that the Harbor Patrol Units duties have changed nor that new
23 positions were established that necessitated a study. She further found that a Fire Department
24

25 ¹ Mary E. Effertz letter to Mitchell A. Riese, Attorney for Firefighter Anderson dated October 21, 2009.

In Re the Matter of GREG ANDERSON
Request to Order a Classification Study on
the Harbor Patrol Unit Boat Pilots
ORDER

Public Safety Civil Service Commission
700 5th Avenue, Ste. 1670
PO Box 94729
Seattle, WA 98124-4729

1 employee is not an “effected employee” of a Police Department position classification. The
2 Personnel Department defines an “effected employee” as a person who is an incumbent of the
3 position in question. In addition, the Personnel Department has never conducted a classification
4 study in response to a request from a person employed by another department.

5 Firefighter Anderson made a timely request for the Commission to revise or modify Ms.
6 Effertz decision. Firefighter Anderson’s request includes four reasons the decision was faulty.

- 7 1. The Seattle Police Department Harbor Patrol Unit (HPU) boats have firefighting capacity
8 and therefore should be classified as fireboat pilot positions.
- 9 2. The HPU boat pilot positions have not been suitably classified.
- 10 3. That there is evidence that the HPU boat pilots are not in compliance with state law,
11 which makes the study necessary.
- 12 4. An effected employee includes more than just an incumbent in the position. It includes
13 persons who assert that they are qualified for the position.

14 **Evaluation of the Request**

15 Under Rule 7.03, the decision whether to grant a request to do a position classification
16 study is discretionary.

17 Firefighter Anderson’s first, second, and third arguments all relate to application of
18 Washington Administrative Code (WAC) and how the WACs interact with the Seattle Municipal
19 Code. His fourth argument relates to his status as an employee.

20 Evaluation WAC 296 Ch. 305 and City’s Classification System

21 Firefighter Anderson is attempting to extend the Department of Labor & Industries (L&I)
22 definition of fire boat and fire department beyond their scope. WAC 296 Ch. 305 regulates the
23 safety standards for fire fighters under the Industrial Safety and Health Act. WAC 296-305-

24 In Re the Matter of GREG ANDERSON
25 Request to Order a Classification Study on
the Harbor Patrol Unit Boat Pilots
ORDER

Public Safety Civil Service Commission
700 5th Avenue, Ste. 1670
PO Box 94729
Seattle, WA 98124-4729

1 01005 defines a fire boat as “a fire department watercraft having permanent, affixed fire fighting
2 capability” and fire department as “an organization providing all or any of the following: rescue,
3 fire suppression, and other related activities.” The HPU boats are arguably fire boats under these
4 definitions.

5 Firefighter Anderson fails to look beyond the definition to determine the applicability of
6 these definitions. WAC 296-305-05009 defines the requirements for watercraft rescue
7 operations and outlines appropriate regulations. The applicable provisions state, “when fire
8 boats perform rescue activities, they shall have two dedicated personnel. Any member not
9 specifically required to operate the vessel,...may be used as a deckhand.” and that “all assigned
10 personnel shall be trained in safe operation of watercraft and the operations the craft is intended
11 to perform.” WAC 296-30-05009. HPU boats are operated by two or more individuals and the
12 HPU pilots receive watercraft safety and operational training. The HPU boats are in compliance
13 with WAC 296-305-05009. The WACs do not, however, add limitations on the way employers
14 classify related positions.
15

16 Firefighter Anderson’s first claim is that since the Fire Department has a Job Class
17 Specification for Fireboat Pilot, every City Department must hire from the Fireboat Pilot
18 promotional list for any and all vessels possibly defined as a fire boat under WAC 296-305-
19 01005. This argument has no merit. The WAC simply does not address position classifications.
20 The sole purpose of the WACs is to provide safety and training requirements necessary for
21 statutorily defined fire boats. Additionally, L&I’s previous evaluations of the HPU compliance
22 did not require nor recommend that SPD hire firefighters to pilot HBU boats. L&I is concerned
23 with training and safety nets not with job classifications.
24
25

1 The WAC definition is inapplicable to position classification under the Seattle Municipal
2 Code (SMC). Under SMC 4.08.070, the Commission has the discretion to create multiple, and
3 mutually exclusive, pools of employees that are qualified to pilot a fire boat as defined by WAC
4 296.305.01005.

5 Firefighter Anderson's second claim is that the HPU boat pilot positions are not suitably
6 classified. SMC 4.08.070(b) gives the Commission power and duty to "classify...all positions
7 covered by this system." SMC 4.08.090 states that "an applicant...must meet the minimum
8 qualifications prescribed by the Commission." The Commission has determined that Seattle
9 Police Officers will be assigned as HPU boat pilots on a rotating basis. The Commission has
10 further determined that a promotional examination for that specific position is unnecessary. This
11 classification is reasonable and within the Commission's discretion.
12

13 Firefighter Anderson's third claim is that there is evidence that the HPU boat pilots are
14 not in compliance with state law and that makes a classification study necessary. First, there is
15 no evidence that the HPU boat pilots are not currently receiving appropriate training and
16 otherwise complying with WAC 296-305-05009 as stated above. Second, the Commission Rule
17 7.03 does not enumerate possible statutory violations as a reason to grant a classification study.
18

19 Status as Effected Employee

20 Firefighter Anderson fourth and final claim is that he is an effected employee under
21 Commission Rule 7.03. The Commission normally defines effected employee as a person who is
22 an incumbent of the position in question. Firefighter Anderson argues this definition should be
23 expanded to include a person who could be arguably be qualified for the position if the
24 classification was reevaluated.
25

1 Director Effertz original position, that an effected employee is limited to employees who
2 are incumbents of the position is justifiable based on past actions and evidence that the
3 Commission has never ordered a study upon the request of an employee of a different City
4 Department.

5 Moreover, Firefighter Anderson would not be an effected employee even if the
6 Commission applies his recommended, and expanded, definition to include a person who could
7 be arguably be qualified for the position if the classification was reevaluated. Firefighter
8 Anderson is a firefighter not a police officer. If the Commission found reason to evaluate the
9 position classification for the HPU boat pilot, the HPU boat pilot minimum qualifications would
10 likely include previous experience and training as a police officer. The primary duties of HPU
11 boat pilots relate to law enforcement not fire protection. Therefore, Firefighter Anderson would
12 not be qualified to be a HPU boat pilot even if a classification was ordered based on his lack of
13 law enforcement experience that would be required.

14 Additionally, Rule 7.03 allows, but does not require, the Secretary to order a
15 classification study requested by an effected employee. Even if Firefighter Anderson was an
16 effected employee, Director Effertz was within her discretion to deny a request for a
17 classification study under any circumstance.

18 **ORDER**

19 WAC 296-305-01005 and WAC 296-305-05009 define fire boats and outline required
20 safety procedures for fire boat operation. These WACs do not require the Commission to
21 classify all potential fire boat pilots into one promotional pool. The Commission has the power
22 and the duty to determine the proper classification of positions under its control.

1 The Harbor Patrol Unit boat pilot requirements comply with WAC 296-305-05009.
2 Noncompliance with the WAC would not require a classification study under Commission Rule
3 7.03.

4 A firefighter ranked on the Fire Department's Fireboat Pilot promotional list cannot
5 request a classification study of the Harbor Patrol Unit boat pilot because he is not, nor would
6 not be, an effected employee under Commission Rule 7.03. He is not an effected employee
7 because 1) he is not an incumbent of the position in question, and 2) he would not be qualified
8 for the position even after the study was complete.
9

10 For the foregoing reasons, the Commission declines to exercise its discretion to do a
11 position classification study evaluating the Harbor Patrol Unit boat pilots and affirms the
12 decision of the Executive director denying Mr. Anderson's request.
13

14 Dated this 18th day of December, 2009.

15 /s/ Joel A. Nark

16 _____
Joel A. Nark, Commission Chair

17 /s/ Herbert V. Johnson

18 _____
Herbert V. Johnson, Commissioner

19 /s/ Terry Carroll

20 _____
Terry Carroll, Commissioner
21
22
23
24
25